

Message Text

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ORIGIN L-03

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TO USMISSION USUN NEW YORK
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E.O. 11652: N/A

TAGS: PARM PORG UNGA UR

SUBJECT: RESPONSE TO SYG ON NON-USE OF FORCE

REF: USUN 6377 (28 DEC 76)

1. MISSION IS REQUESTED TO TRANSMIT THE FOLLOWING TEXT,
WITH ADDITION OF APPROPRIATE COMPLIMENTARY OPENING AND
CLOSING PARAS, IN RESPONSE TO THE SECRETARY-GENERAL'S
LETTER OF DEC 21, 1976 REQUESTING US VIEWS IN CONNECTION
WITH GA RES 31/9 CONCERNING THE PROPOSED WORLD TREATY ON
THE NON-USE OF FORCE.

2. TEXT BEGINS.
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THE UNITED STATES REMAINS FIRMLY COMMITTED TO THE PROHIBI-
TION ON THE THREAT OR USE OF FORCE AS SET FORTH IN THE
CHARTER OF THE UNITED NATIONS. WE ACTIVELY SUPPORT THE
PRINCIPLE OF PEACEFUL SETTLEMENT OF DISPUTES AND THE ROLE
THAT THE UNITED NATIONS PLAYS IN THE ELABORATION OF THAT
PRINCIPLE. WE BELIEVE THAT INITIATIVES TO STRENGTHEN AND

ELABORATE EXISTING MECHANISMS FOR THE PROMPT AND EFFICIENT RESOLUTION OF DISPUTES DESERVE THE MOST CAREFUL CONSIDERATION.

THE CHARTER OF THE UNITED NATIONS REFLECTS A SOLEMN AND SHARED COMMITMENT TO THE MAINTENANCE OF INTERNATIONAL PEACE AND THE PREVENTION OF WAR. EVERY MEMBER STATE HAS EXPRESSLY PLEDGED TO UPHOLD THE PROVISIONS OF THE CHARTER, INCLUDING ARTICLE 2(3), WHICH CALLS UPON MEMBERS TO "SETTLE THEIR DISPUTES BY PEACEFUL MEANS," AND ARTICLE 2(4), WHICH OBLIGATES ALL MEMBERS TO "REFRAIN IN THEIR INTERNATIONAL RELATIONS FROM THE THREAT OR USE OF FORCE AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF ANY STATE." THESE PROVISIONS REPRESENT MORE THAN A TREATY OBLIGATION BINDING ONLY ON MEMBER STATES; THEY ENUNCIATE A CLEAR AND DIRECT RULE RECOGNIZED AS A PEREMPTORY NORM OF INTERNATIONAL LAW BINDING ON ALL STATES.

IN THE VIEW OF THE UNITED STATES, IT IS ESSENTIAL TO PRESERVE THE FUNDAMENTAL AND AUTHORITATIVE NATURE OF THIS OBLIGATION AND TO SEEK BROAD AND CONSISTENT ADHERENCE TO THE CHARTER PRINCIPLES ON WHICH THE OBLIGATION IS BASED. PRECISELY BECAUSE THE CHARTER'S PROVISIONS CONCERNING THE CONDUCT OF STATES ARE SO CLEAR AND HAVE SUCH AUTHORITY, THE UNITED STATES VIEWS WITH CONCERN ANY PROPOSAL FOR THEIR RESTATEMENT OR REVISION.

FOR THIS REASON, THE UNITED STATES ABSTAINED IN THE VOTE
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ON RESOLUTION 31/9 IN THE GENERAL ASSEMBLY AND CONTINUES TO HAVE THE SERIOUS RESERVATIONS STATED AT THAT TIME WITH RESPECT TO THE NEED FOR AND PURPOSE OF A SEPARATE TREATY ON THE NON-USE OF FORCE IN INTERNATIONAL RELATIONS. WE SEE NO MERIT IN PARAPHRASING EXISTING OBLIGATIONS UNDER THE CHARTER. ON THE CONTRARY, WE ARE CONCERNED THAT RESTATEMENT OF THE PROHIBITION ON THE USE OF FORCE WOULD DO NO SERVICE TO THE PRIMACY OF THE CHARTER AND MIGHT IN FACT DIMINISH THE SOLEMNITY OF THE LEGAL COMMITMENT UNDERTAKEN THEREIN THROUGH NEEDLESS DUPLICATION OR SELECTIVE REITERATION. MOREOVER, WE BELIEVE THE PROPOSED TREATY RISKS CREATING LOOPHOLES AND CONFUSION IN THE CHARTER STRUCTURE, PARTICULARLY WITH RESPECT TO THE INHERENT RIGHT OF SELF-DEFENSE. WE BELIEVE IT IS ESSENTIAL THAT ANY ATTEMPT TO MODIFY THAT FUNDAMENTAL COMMITMENT BE UNDERTAKEN ONLY IN ACCORDANCE WITH THE PROVISIONS OF THE CHARTER.

IN ADDITION, WE ARE CONCERNED THAT THE ATTEMPT TO DRAFT

SUCH A TREATY WOULD DETRACT FROM CONTINUING EFFORTS TO REACH AGREEMENT ON REALISTIC SOLUTIONS TO CONCRETE ARMS CONTROL PROBLEMS. THE UNITED STATES PLACES GREAT

IMPORTANCE ON THE PROMPT ACHIEVEMENT OF PRACTICAL MEASURES TO ACHIEVE REAL CONTROL OF ARMS. ADOPTION OF VAGUE DECLARATIONS AND GENERALITIES MUST NOT BE A SUBSTITUTE FOR EFFECTIVE EFFORTS TO SETTLE INTERNATIONAL DISPUTES PEACEFULLY, TO REDUCE TENSIONS, AND TO PROMOTE DISARMAMENT IN THE INTERNATIONAL COMMUNITY--EFFORTS IN WHICH MEMBERS OF THE UNITED NATIONS ARE NOW ENGAGED.

THE UNITED STATES BELIEVES THAT IT IS A MORAL AS WELL AS PRAGMATIC IMPERATIVE THAT STATES UNDERTAKE RENEWED AND REDOUBLED EFFORTS TO ENSURE THE PEACEFUL RESOLUTION OF DISPUTES AND THE ELIMINATION OF THE USE OF FORCE IN INTERNATIONAL RELATIONS. IN THIS RESPECT, WHAT IS NEEDED IS LIMITED OFFICIAL USE

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NOT A FURTHER GLOSS ON THE CLEAR AND ESTABLISHED PROHIBITION IN THE CHARTER AGAINST THE THREAT OR USE OF FORCE. RATHER, WHAT IS NEEDED IS GREATER WILL ON THE PART OF STATES TO HONOR THEIR EXISTING OBLIGATIONS, TO CREATE MORE EFFECTIVE METHODS OF PEACEFUL SETTLEMENT AS AN ALTERNATIVE TO THE USE OF FORCE, AND TO ACHIEVE AGREEMENT ON ARMS LIMITATION AND REDUCTION.

ANY FUTURE CONSIDERATION OF WAYS AND MEANS OF ELIMINATING THE USE OF FORCE WOULD REQUIRE CAREFUL EXAMINATION OF THESE CONSIDERATIONS AND MUST BE GROUNDED ON REALISM AND LEGAL EXPERTISE. TEXT ENDS. VANCE

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Control Number: n/a
Copy: SINGLE
Sent Date: 08-Jun-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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